

REMARKS

The Claims

Pending claims 1-32 are hereby cancelled without prejudice or disclaimer. New Claims 33-54 are added. The new claims are fully supported in the specification. For example, support for Claims 33-37 and 45-47 is found at page 49, line 20 to page 50, line 8 and original Claim 13; support for Claims 48-53 is found at page 50, lines 15-24 and at page 50, line 34 to page 52, line 12; support for Claims 38-44 and 54 is found at page 64, lines 27-30 and page 66, lines 24-28. The claims do not introduce new matter nor raise new issues requiring further consideration and/or search. Entry of the new claims is respectfully requested.

Amendments to the Specification

Applicant has amended the specification to claim benefit of earlier filed application pursuant to 37 CFR 1.78(a)(2) and (a)(5).

Submission of Substitute Sequence Listing

The Examiner has noted that at least the amino acid sequences on page 93 of the specification are missing a sequence identifier and has requested that Applicant review the specification to ensure compliance with the requirements for disclosure of nucleotide and/or amino acid sequences pursuant to 37CFR 1.821-1.825. To this end, Applicant submits herewith a substitute sequence listing which includes new SEQ ID NOs: 36 and 37 which correspond to the amino acid sequences at page 93, lines 3 and 5, respectively. Applicant has also amended the specification to introduce the new sequence identifiers. It is maintained that the specification is now in compliance with the sequence rules.

Examiner's Statement of Priority

The Examiner alleges that instant claims which read upon SEQ ID NO:16 and SEQ ID NO:17 are entitled to the priority date of U.S. Serial No. 09/264,527, which is March 8, 1999, but not to the priority date of earlier filed U.S. Serial No. 09/244,448. Applicant disagrees. The claims as presented herein are directed to antibodies which bind human B7RP1 of residues 1-288 (hereafter "B7RP1(1-288)") and antibodies which bind human B7RP1 of residues 1-302 (hereafter "B7RP1(1-302)"). Claims directed to antibodies which B7RP1 (1-288) are entitled to the February 3, 1999 priority date. As all of these antibodies would also bind to B7RP1(1-302), Applicant maintains that antibodies binding to B7RP1(1-302) are also supported by the earliest application and are entitled to the February 3, 1999 priority date. Moreover, the Examiner has not provided any evidence suggesting that one could make antibodies which bind to B7RP1(1-302) and not to B7RP1(1-288). Applicant maintains that all pending claims have a priority date of February 3, 1999.

The Title of the Invention

The Examiner alleges that the title of the invention is not descriptive. Applicant hereby amend the specification to substitute the title: ANTIBODIES WHICH BIND B7RP1.

Information Disclosure Statements

Attached hereto are forms PTO-1449 that accompanied the Information Disclosure Statements of December 6, 2001 and February 6, 2003.

Objections to the Claims

Claim 13 is objected to as the sequence identifiers in subpart (c) correspond to nucleic acid sequences whereas the claim recites amino acid sequences. Applicant has cancelled Claim 13 without prejudice or disclaimer, thereby rendering the rejection moot.

Rejections Under 35 U.S.C. 112, Second Paragraph

Claims 13-18 and 32 are rejected as indefinite for recitation of the terms “hybridization under stringent conditions” (Claims 13-18), “ortholog” (Claim 32), and “an allelic variant or splice variant of (a),(b) or (c)” (Claims 13-18 and 32). Applicant has cancelled Claims 13-18 and 32 thereby rendering the rejection moot.

Rejections Under 35 U.S.C. 112, First Paragraph (Enablement)

Claims 13-18 and 32 are rejected as the specification allegedly lacks enablement for antibodies or fragments thereof which bind to a polypeptide:

- (1) comprising an amino acid sequence of murine or human B7RP1;
- (2) which is an allelic variant or a splice variant of murine or human B7RP1;
- (3) which has at least 70% identity to an amino acid sequence of murine or human B7RP1

Also rejected are claims directed to antibodies which bind to a polypeptide encoded by nucleic acid which hybridizes under stringent conditions to a nucleic acid sequence encoding a murine or human B7RP1 polypeptide.

Applicant has cancelled Claims 13-18 and 32, thereby rendering the rejections moot.

Rejections Under 35 U.S.C. 112, First Paragraph (Written Description)

Claims 13-18 and 32 are rejected as the specification allegedly lacks sufficient written description for antibodies or fragments thereof which bind to a polypeptide:

- (4) comprising an amino acid sequence of murine or human B7RP1;
- (5) which is an allelic variant or a splice variant of murine or human B7RP1;

- (6) which has at least 70% identity to an amino acid sequence of murine or human B7RP1

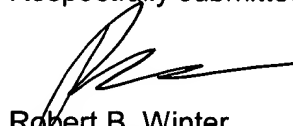
Also rejected are claims which are directed to antibodies which bind to a polypeptide encoded by a nucleic acid which hybridizes under stringent conditions to a nucleic acid sequence encoding a murine or human B7RP1 polypeptide.

Applicant has cancelled Claims 13-18 and 32, thereby rendering the rejections moot.

CONCLUSION

Claims 33-54 are in condition for allowance and an early notice thereof is solicited.

Respectfully submitted,



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